

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA	§	
	§	
	§	
VS.	§	NO. A-16-CR-00118(2) SS
	§	
	§	
JULIAN PEREZ PEREZ	§	

**SENTENCING MEMORANDUM
AND MOTION FOR DOWNWARD DEPARTURE AND VARIANCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW JULIAN PEREZ PEREZ, Defendant in the above entitled and numbered cause, and respectfully submits this sentencing memorandum and would show the Court as follows:

I.

On Bond. Perez has been released on bond since May 26, 2016. Perez has followed the conditions of pretrial release and reported as ordered. His overall behavior and demeanor have been exemplary which is to be expected in light of his lack of criminal history.

II.

His Involvement. His behavior in the instant case is not an accurate reflection of his character but rather aberrant behavior. Upon being arrested he gave a full and honest account of what he had done because he had no criminal experience that might have taught him to remain silent. The discovery in the case gives no reason to believe that he

was not truthful when he talked to the agents. In fact, had he not talked the level of evidence against him would have made securing a conviction difficult. He knew what was going on and admitted that to the agents. He knew his wife was smuggling aliens and he assisted her. He moved money from the people who were transported through his account to people in Mexico. He kept a portion and invested in real estate. It was not a sophisticated scheme. Had he not been married to her it is unlikely he would have been involved in any such behavior. In his plea agreement he agreed to forfeit substantial real estate and money.

III.

Work History. Perez has always worked at an honest job. He was employed with Austin ISD from 1992 until 2016 and was a dedicated employee. He was fired because of his arrest. He has had other jobs in landscaping and can continue to work as a landscaper.

IV.

Osvaldo. Perez is a good person who has taken care of his family. He is most concerned about his son Osvaldo who has Down syndrome. Perez is the primary care giver for his son. If he is incarcerated he believes Osvaldo will not be afforded the same level of care he receives from his father.

V.

Regret. Perez has thought about what he has done. He recognizes that he made a major mistake in being involved with this offense and understands its serious nature.

VI.

18 U.S.C. § 3553 factors. Under the factors of §3553 Perez should receive probation. He intends never to put himself and his family through this again. He will not reoffend. His work history and lack of other criminal behavior show that he need not be imprisoned. A sentence below the guidelines is appropriate and a downward departure and variance should be made in this case.

United States v. Booker, 543 U.S. 220, 125 S. Ct. 738, 160 L. Ed. 2d 621 (2005), allows the courts to review a sentence to determine whether it is unreasonable with regard to 18 U.S.C. § 3553(a), applying a deferential abuse-of-discretion standard. After *Gall v. United States*, 128 S. Ct. 586, 591, 169 L. Ed. 2d 445 (2007), a court may deviate substantially from the guidelines range without being justified by extraordinary circumstances. *United States v. Rowan*, 530 F. 3d 379 (5th Cir. 2008).

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that the Court consider this sentencing memorandum and sentence him to probation.

Respectfully submitted,

/s/ Stephen M. Orr
STEPHEN M. ORR
1107 Nueces Street
Austin, Texas 78701
(512) 472-8392
Fax (512) 473-8417
Texas Bar No. 15317000

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2016, a true and correct copy of the foregoing instrument was electronically filed with the Clerk of the Court, using the CM/ECF System which will transmit notification of such filing to all counsel of record

/s/ Stephen M. Orr
STEPHEN M. ORR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA

§

§

§

VS.

§

NO. A-16-CR-00118(2) SS

§

§

JULIAN PEREZ PEREZ

§

ORDER

On this day came to be heard the sentencing memorandum and motion for downward departure and variance filed by Defendant in the above cause and the Court hereby orders that such motion be

(GRANTED)

(DENIED)

SIGNED AND ORDERED this the _____ day of _____, 2016.

UNITED STATES DISTRICT JUDGE